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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/553,396

10/17/2005

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EXAMINER

WILKENS, JANET MARIE

ART UNIT

PAPER NUMBER

3637

MAIL DATE

DELIVERY MODE

09/17/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/553,396	Applicant(s) JOSEFSSON ET AL.	
	Examiner Janet M. Wilkens	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 October 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/17/05, 12/16/05 & 3/30/06</u> | 6) <input type="checkbox"/> Other: ____ |

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the feed device and the channel element formed by the shelf must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

The drawings are also objected to because in Fig. 1b, numeral 36 should be 3b.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The disclosure is objected to because of the following informalities: it is improper to refer to claims in the specification, since claims can be amended, thus changing the scope of the specification. Appropriate correction is required.

Claim Objections

Claim 1 is objected to because of the following informalities: in line 2, "to" should be inserted after "etc.". Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claim 1, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d). Also regarding claim 1, the term "etc." renders the claim indefinite because it is unclear whether the limitations following the term are part of the claimed invention. Next for claim 1, it is unclear whether or not the shelf is to be positively claimed in combination with the system. In the preamble of the claim, only the system is being claimed, the shelf appearing in an intended use/"for" statement. However, in the body of the claim, the shelf is positively

being claimed, e.g. "...parallel with the longitudinal direction of the shelf". For examination purposes, the combination will be considered the claimed subject matter. Furthermore for claim 1, "the channel" lacks antecedent basis (previously found in an intended use statement) and it is unclear whether or not the "at least one foot" is the same foot as claimed previously. For claim 4, "the elongated element" and "the elastic element" lack antecedent basis. For claim 8, it is unclear whether or not the "an elastic member" is the same member claimed previously. For claims 11 and 19, it is unclear how a single bead can constitute engagement members (plural). For claims 13, 21 and 23, "the shelf plane" lacks antecedent basis. For claim 15, it is unclear whether or not the "a channel element", "a control member", and "a holding member" are the same members claimed previously in claim 1. Note: if a second embodiment is intended to be claimed here, it cannot be claimed in this fashion. For claim 18, it is unclear whether or not the "a foot" is the same foot claimed previously. For claim 20, it is unclear how a single groove can constitute engagement members (plural). For claim 22, it is unclear whether or not the "an elastic member" is the same foot claimed previously.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 6, 7, 9, 14, 15, 25-27 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Ribeyrolles (5,657,702). Ribeyrolles teaches a system on a shelf (1; see Figs. 5-7) comprising at least one accessory (2,3) having a foot (4) with a flange (see Fig. 6) and a clamping device (see Fig. 6), which latter comprises a channel element (18) extending parallel with the longitudinal direction of the shelf and having an open longitudinal side, an actuable holding member (6), extending along the channel element, a control member (19-23) and an elastic member (24). If enough upward force is applied to the accessory and foot, the elastic member and holding member would give, allowing the accessory to be removed. Please note that limitations found in intended use/"for" statements have not been given any weight in the claims. Also for claim 14, product by process limitations are given no weight in a claim and the alternate fastening means are being considered functional equivalents.

Claims 1-5, 8, 14-17, 25-27 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Wiggins (5,119,945). Wiggins teaches a system on a shelf (see Figs. 1 and 3) comprising at least one accessory (25) having a foot (46) and a clamping device (see Fig. 3), which latter comprises a channel element (80) extending parallel with the longitudinal direction of the shelf and having an open longitudinal side, an actuable holding member (94 in 76 and 100), extending along the channel element, a control member (82 including 95) and an elastic member/leaf spring (100 which is part of the holding member) with tongues (105). If enough upward force is applied to the accessory and foot, the elastic member would give, allowing the accessory to be removed.

Allowable Subject Matter

Claims 10-13, 18-24 and 28 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet M. Wilkens whose telephone number is (571) 272-6869. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Wilkens

September 13, 2007


JANET M. WILKENS
PRIMARY EXAMINER
AU 3637